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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Check Cashers and Sellers Act of Washington by:

NO. C-04-218-05-SC01

CASH U.S.A., INC., and
NILO TUAZON, President, Chief Executive
Officer and Owner, and
MARITA TUAZON, Secretary, Vice-President and
Owner,
Respondents.

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE
APPLICATION, IMPOSE FINE, ORDER
RESTITUTION, BAN FROM INDUSTRY,
AND COLLECT INVESTIGATION FEE

INTRODUCTION

Pursuant to RCW 31.45.110 and RCW 31.45.200, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.45 RCW, the Check Cashers and Sellers Act (Act). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 31.45.100, and based upon the facts available as of June 15, 2005 the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **Cash U.S.A., Inc. (Cash USA)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a license to conduct the business of a check casher with a small loan endorsement at the following location:

18230 East Valley Road, Suite 141
Kent, Washington 98032

The application was received by the Department on November 8, 2004.

B. **Nilo Tuazon (N. Tuazon)** is listed as President, Chief Executive Officer and Owner of Respondent Cash USA in the application.

1 C. **Marita Tuazon** is listed as Secretary, Vice-President and Owner of Respondent Cash USA in the
2 application.

3 **1.2 Locations.** For at least the period beginning July 2003 through January 13, 2005, Respondents have
4 conducted business from the following locations:

- 5 A. 6951 Martin Luther King Way, Ste 103 & 104, Seattle, WA 98118.
- 6 B. 18230 East Valley Highway, Ste 141, Kent, WA 98032.

7 **1.3 Check Casher License with Small Loan Endorsement.** To date, the Department has not issued a
8 license to any of the Respondents to conduct the business of a check casher with a small loan endorsement. To
9 date, the Department has not issued a license to any person to conduct the business of a check casher with a
10 small loan endorsement from either of the addresses listed in paragraph 1.2.

11 **1.4 Temporary Order to Cease and Desist.**

12 A. On November 2, 2004, the Department issued Temporary Order to Cease and Desist C-04-218-
13 04-TD01 (TCD) and served the TCD on Respondents. The TCD ordered Respondents to immediately cease
14 and desist from: the making of any small loans and from all small loan activity regulated under the Act at any
15 locations; and engaging in any loan business or from negotiation of loan activity regulated under the Act at any
16 locations. Respondents filed timely applications requesting an adjudicative hearing on the TCD.

17 B. On December 20, 2004, Respondent N. Tuazon filed an Answer with Affirmative Defenses
18 (Answer Pleading) on behalf of all Respondents.

19 C. On January 13, 2005, an adjudicative hearing was conducted in Tacoma Washington by the
20 Office of Administrative Hearings (OAH). Administrative Law Judge Michelle C. Mentzer (ALJ Mentzer)
21 presided over the hearing.

22 D. On February 14, 2005, ALJ Mentzer issued an Initial Order Continuing Temporary Order to
23 Cease and Desist (Initial Order), making specific findings of fact and conclusions of law and ordering that the
24 provisions of the TCD shall remain in effect pending issuance and final resolution of a Statement of Charges in
25 this matter.

1 **1.5 Unauthorized Making of Small Loans.** Respondents have engaged in the business of making small
2 loans from the addresses listed in paragraph 1.2 from at least July 2003 through January 13, 2005.

3 A. On November 2, 2004, Subpoena to Produce Records C-04-218-04-SB01 (Subpoena) was
4 issued by the Department and served on Respondents concurrently with the TCD discussed in paragraph 1.4.
5 Pursuant to the subpoena, Department personnel obtained small loan files for over one hundred twenty-five
6 (125) borrowers from Respondents. According to these small loan files, all of these borrowers had outstanding
7 small loans due to Respondents as of November 2, 2004, with principal balances totaling over ninety thousand
8 dollars (\$90,000.00).

9 B. Pursuant to the subpoena discussed in paragraph 1.5A, Department personnel obtained loan
10 activity schedules from Respondents for the period from January 2004 through November 2, 2004. According
11 to these loan activity schedules, Respondents made over one million eighty-four thousand dollars
12 (\$1,084,000.00) in small loans and collected over one hundred seventy-seven thousand dollars (\$177,000.00) in
13 interest on small loans during this period.

14 C. From June 2003 through October 2004, Respondents made over four hundred fifteen thousand
15 dollars (\$415,000.00) in deposits and over four hundred seven thousand dollars (\$407,000.00) in withdrawals in
16 their operating account at Bank of America, NA.

17 D. According to financial statements provided to the Department by Respondents as part of their
18 license application materials, Respondent Cash USA earned over one hundred fifty-five thousand dollars
19 (\$155,000.00) in fees between January 1, 2004 and September 30, 2004, and had notes receivable totaling over
20 one hundred seventy thousand dollars (\$170,000.00) as of September 30, 2004.

21 E. At least ten (10) borrowers have provided the Department with declarations that they obtained
22 small loans from Respondents Cash USA and N. Tuazon during at least the period from March 2004 through
23 November 2004, and that each of these borrowers had a small loan outstanding with Respondents.

24 F. From July 2003 through October 2004, Respondents filed over one hundred thirty (130) Small
25 Claims in the West Division of the King County District Court to collect on dishonored checks written to

1 Respondent Cash USA. In some of these Small Claims, Respondents entered dishonored checks and loan
2 applications as evidence.

3 G. In the Answer Pleading discussed in paragraph 1.4B, Respondent N. Tuazon stated that
4 Respondents operated their business without first obtaining a license from the Department.

5 H. At the OAH adjudicative hearing discussed in paragraph 1.4C, Respondent N. Tuazon testified
6 under oath that Respondents had engaged in the business of making small loans from the addresses listed in
7 paragraph 1.2 from at least May 2003 through the date of the hearing.¹

8 **1.6 Failing to Disclose Terms of Small Loans to Borrowers.** Respondents have failed to provide
9 borrowers with statutorily required written agreements or written disclosures during the course of making small
10 loans.

11 A. None of the small loan files discussed in paragraph 1.5A contain copies of statutorily required
12 written agreements or written disclosures.

13 B. At least two (2) borrowers have provided the Department with declarations that Respondents
14 did not provide any written agreements or written disclosures related to the small loans these borrowers
15 obtained from Respondents.

16 C. In the Answer Pleading discussed in paragraph 1.4B, Respondent N. Tuazon did not deny that
17 Respondents had failed to disclose terms of small loans to borrowers from at least July 2003 through October
18 28, 2004, but rather argued that such allegation was part and parcel with operating without a license and was
19 already included in such charge.

20 D. At the OAH adjudicative hearing discussed in paragraph 1.4C, Respondent N. Tuazon testified
21 under oath that Respondents had failed to provide borrowers with statutorily required written agreements or
22 written disclosures during the course of making small loans.²

23 **1.7 Making Small Loans in Excess of Statutory Maximum.** Respondents have provided borrowers with
24 small loans with aggregated principal exceeding seven hundred dollars (\$700.00) at any one time.

25 ¹ Transcript (TR) Page (P) 139 Line (LN) 24 - P 140 LN 8, TR P 142 LN 2-15, TR P 181 LN 2-20.

² TR P 149 LN 25 - P 150 LN 9, TR P 162 LN 14 - P 163 LN 2, TR P 182 LN 22 - P 183 LN 6.

1 A. Upon review of the small loan files discussed in paragraph 1.5A, at least forty-three (43)
2 borrowers had small loans due to Respondents with aggregated principal exceeding seven hundred dollars
3 (\$700.00) as of November 2, 2004. At least fourteen (14) of these borrowers had small loans due to
4 Respondents with aggregated principal of one thousand four hundred dollars (\$1,400.00) or more (twice the
5 statutory limit), and at least eight (8) of these borrowers had small loans due to Respondents with aggregated
6 principal of two thousand dollars (\$2,000.00) or more (nearly three times the statutory limit). The highest
7 aggregated principal balance of any of these borrowers exceeded four thousand two hundred dollars
8 (\$4,200.00).

9 B. At least seven (7) borrowers have provided the Department with declarations that Respondents
10 provided them with small loans with aggregated principal exceeding seven hundred dollars (\$700.00) at any one
11 time.

12 C. In the Answer Pleading discussed in paragraph 1.4B, Respondent N. Tuazon did not deny that
13 Respondents had made small loans in excess of the statutory maximum from at least July 2003 through October
14 28, 2004, but rather argued that such allegation was part and parcel with operating without a license and was
15 already included in such charge.

16 D. At the OAH adjudicative hearing discussed in paragraph 1.4C, Respondent N. Tuazon testified
17 under oath that Respondents had provided borrowers with small loans with aggregated principal exceeding
18 seven hundred dollars (\$700.00) at any one time.³

19 **1.8 Charging Interest or Fees on Small Loans in Excess of Statutory Maximum.** Respondents have
20 charged interest or fees in the aggregate exceeding fifteen percent (15%) of the first five hundred dollars
21 (\$500.00) of aggregated principal and ten percent (10%) of the next two hundred dollars (\$200.00) of
22 aggregated principal of small loans outstanding at any one time.

23 A. Upon review of the small loan files discussed in paragraph 1.5A, at least fifty-seven (57)
24 borrowers had small loans outstanding with Respondents where interest or fees were being charged that, in the
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³ TR P 145 LN 17 – P 146 LN 14, TR P 150 LN 17-21, TR P 181 LN 21 – P 182 LN 7.

1 aggregate, exceeded fifteen percent (15%) of the first five hundred dollars (\$500.00) of aggregated principal
2 and ten percent (10%) of the next two hundred dollars (\$200.00) of aggregated principal outstanding as of
3 November 2, 2004.

4 B. At least eight (8) borrowers have provided the Department with declarations that Respondents
5 charged them interest or fees in the aggregate exceeding fifteen percent (15%) of the first five hundred dollars
6 (\$500.00) of aggregated principal and ten percent (10%) of the next two hundred dollars (\$200.00) of
7 aggregated principal of small loans outstanding at any one time.

8 C. In the Answer Pleading discussed in paragraph 1.4B, Respondent N. Tuazon did not deny that
9 Respondents had charged interest on small loans in excess of the statutory maximum from at least July 2003
10 through October 28, 2004, but rather argued that such allegation was part and parcel with operating without a
11 license and was already included in such charge.

12 D. At the OAH adjudicative hearing discussed in paragraph 1.4C, Respondent N. Tuazon testified
13 under oath that Respondents had charged interest or fees in the aggregate exceeding fifteen percent (15%) of the
14 first five hundred dollars (\$500.00) of aggregated principal and ten percent (10%) of the next two hundred
15 dollars (\$200.00) of aggregated principal of small loans outstanding at any one time.⁴

16 **1.9 Accepting Multiple Postdated Checks.** Respondents have accepted more than one postdated check
17 per small loan as security for the small loan.

18 A. Upon review of the small loan files discussed in paragraph 1.5A, at least sixteen (16) borrowers
19 had provided two (2) or more postdated checks as security for their small loans outstanding as of November 2,
20 2004.

21 B. At least one (1) borrower has provided the Department with a declaration that Respondents
22 requested that the borrower provide two (2) postdated checks as security for a small loan.

23 **1.10 Small Loans Repaid with Proceeds of Successive Small Loans (Rolling).** Respondents have allowed
24 borrowers to extend existing small loans by paying the interest portion of their small loan balance when the
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⁴ TR P 147 LN 1-5, TR P 150 LN 22-25.

1 small loan was due and either allowing Respondents to change the date on their post dated check to a later date
2 or exchanging their post dated check for a new check post dated to a later date than the original, effectively
3 allowing borrowers to repay small loans with proceeds from successive small loans. This practice is commonly
4 referred to as rolling loans.

5 A. Upon review of the small loan files discussed in paragraph 1.5A and the loan activity schedules
6 discussed in paragraph 1.5B, at least twenty (20) borrowers were allowed to repay small loans with proceeds
7 from successive small loans from April 2004 through November 2, 2004. During this period, these twenty (20)
8 borrowers extended small loans with aggregated principal balances ranging from one hundred dollars (\$100.00)
9 to four thousand dollars (\$4,000.00), each making between eight (8) and fourteen (14) interest-only payments
10 cumulatively totaling thirty-six thousand nine hundred forty-one dollars (\$36,941.00). As of November 2,
11 2004, each of these twenty (20) borrowers still had outstanding small loans due to Respondents, with
12 cumulative principal balances of twenty-three thousand six hundred fifty dollars (\$23,650.00).

13 B. At least ten (10) borrowers have provided the Department with declarations that Respondents
14 allowed them to extend their existing small loans by paying the interest portion of their small loan balance when
15 the small loan was due and either allowing Respondents to change the date on their post dated check to a later
16 date or exchanging their post dated check for a new check post dated to a later date than the original.

17 C. In the Answer Pleading discussed in paragraph 1.4B, Respondent N. Tuazon did not deny that
18 Respondents had allowed borrowers to repay small loans with the proceeds from successive small loans from at
19 least July 2003 through October 28, 2004, but rather argued that such allegation was part and parcel with
20 operating without a license and was already included in such charge.

21 D. At the OAH adjudicative hearing discussed in paragraph 1.4C, Respondent N. Tuazon testified
22 under oath that Respondents had allowed borrowers to extend their existing small loans by paying the interest
23 portion of their small loan balance when the small loan was due, but under his understanding of the Act "I have
24 not violated [the Act] by just accepting the interest and then [giving] the borrower another term of two weeks
25

1 because this one, as defined, what is prohibited, and I do not fall in it.⁵ Respondent N. Tuazon further testified
2 that complying with the Act's prohibition on rolling loans "is like playing games"⁶ and Respondents "appeared
3 ridiculous"⁷ if they required borrowers to pay their entire small loan balance before getting a new small loan.⁸

4 **1.11 Charging Fees on Delinquent Small Loans in Excess of Statutory Maximum.** When Respondents
5 have taken civil action to collect on delinquent small loans, which generally involved checks that have been
6 dishonored, Respondents have charged borrowers fees in excess of: (1) a one-time fee up to twenty-five dollars
7 (\$25.00) where a borrower's check has been returned unpaid by the financial institution upon which it is drawn;
8 and (2) where civil action is taken under Title 62A RCW, the allowable cost of collection as allowed under
9 RCW 62A.3-515 (the lesser of forty dollars (\$40.00) or the face amount of the check) but not attorney's fees or
any other interest or damages as allowed under RCW 62A.3-515.

10 A. Pursuant to the subpoena discussed in paragraph 1.5A, Department personnel obtained
11 documents related to at least fifty (50) Writs of Garnishment filed by attorneys acting as third-party collectors
12 on behalf of Respondents to collect on Small Claims judgments against small loan borrowers. At least nine (9)
13 of these Writs of Garnishment included fees for items such as: pre-collection and post-collection interest; Writ
14 application filing fees; postage; and garnishing attorney fees. The fees in these nine (9) cases totaled over one
15 thousand dollars (\$1,000.00), in addition to the fees allowed by the Act discussed above.

16 B. From March 2004 through October 2004, Respondents deposited checks from attorneys acting
17 as third party collectors totaling almost three thousand five hundred dollars (\$3,500.00) into their operating
18 account at Bank of America, NA.

19 **1.12 Charging Fees on Small Loan Payment Plans in Excess of Statutory Maximum.** When
20 Respondents have set up small loan payment plans with borrowers, Respondents have charged borrowers fees
21 in excess of: (1) a one-time fee up to twenty-five dollars (\$25.00) where a borrower's check has been returned
unpaid by the financial institution upon which it is drawn; and (2) a one-time payment plan fee up to fifteen

22 ⁵ TR P 183 LN 9-13.

23 ⁶ TR P 151 LN 8.

⁷ TR P 151 LN 9-10.

24 ⁸ TR P 148 LN 10 – P 149 LN 24, TR P 151 LN 1-15, TR P 183 LN 7-13.

1 percent (15%) of the first five hundred dollars (\$500.00) of aggregated principal and ten percent (10%) of the
2 next two hundred dollars (\$200.00) of aggregated principal; and (3) a one-time payment plan default fee of
3 twenty-five dollars (\$25.00) where a borrower defaults on the payment plan (a borrower may not be charged
4 any fee for any dishonored check accepted as payment under the payment plan).

5 A. Pursuant to the subpoena discussed in paragraph 1.5A, Department personnel obtained
6 documents related to at least twenty-seven (27) payment plans Respondent entered into with borrowers for their
7 small loans from January 2004 through October 2004. According to these documents:

- 8 • four (4) of the payment plans not involving dishonored checks added fees ranging from one
hundred thirty-five dollars (\$135.00) to seven hundred dollars (\$700.00) to the outstanding
small loan balance;
- 9 • four (4) of the payment plans involving dishonored checks added fees ranging from one
hundred thirty-one dollars (\$131.00) to two hundred thirty-six dollars (\$236.00) to the
outstanding small loan balance;
- 10 • three (3) of the payment plans contained provisions for the payment of interest at a rate of
two percent (2%) per month until the completion of the payments;
- 11 • all twenty-seven (27) of the payment plans contained provisions for a penalty payable to
Respondents in the event the borrowers failed to pay any single installment due under the
plan, twenty-three (23) provisions were for a penalty ranging from one hundred dollars
12 (\$100.00) to five hundred dollars (\$500.00) and four (4) provisions were for a penalty of
13 twenty-five percent (25%) of the outstanding payment plan balance.

14 B. At least one (1) borrower has provided the Department with a declaration that Respondents
15 charged a three hundred twenty-five dollar (\$325.00) fee to set up a payment plan for the outstanding two
16 thousand dollar (\$2,000.00) principal balance of the borrower's small loan. The terms of the payment plan
17 included a five hundred dollar (\$500.00) fee payable to Respondents in the event the borrower failed to pay any
18 single installment due under the plan.

19 C. At the OAH adjudicative hearing discussed in paragraph 1.4C, Respondent N. Tuazon testified
20 under oath that Respondents had allowed borrowers to enter into payment plans for the repayment of their small
21 loans and that such payment plans, including the payment plan for the borrower discussed in paragraph 1.12B,
22 contained no provision for the payment of interest.⁹

23
24 ⁹ TR P 159 LN 4 – P 160 LN 1.

1 **1.13 Violating an Order.** Respondents violated the TCD issued by the Department on November 2, 2004,
2 discussed in paragraph 1.4.

3 A. On November 9, 2004, James R. Brusselback (Brusselback), then Supervisor of the
4 Investigation and Enforcement Section of the Department, received a voicemail from Respondent N. Tuazon
5 requesting the return of some checks and loan folders, provided to the Department pursuant to the subpoena
6 discussed in paragraph 1.5A, to facilitate the redemption of such checks by borrowers. On November 9, 2004,
7 Brusselback sent a letter via telefacsimile and overnight mail to Respondent N. Tuazon clarifying that the TCD
8 ordered Respondents to immediately cease and desist from any and all check cashing/selling and small loan
9 activity, including the acceptance of interest on existing small loans and the rolling of existing small loans. On
November 10, 2004, Respondent N. Tuazon left Brusselback the following voicemail message:

- 10 • "Hello there James, uh, this is, uh, Nilo from Cash USA. I got your fax, uh, message and I
11 am sorry for this because I thought the, uh, cease and desist order only pertains to the
12 granting of new and fresh loans. I did not know it also covered payments that are being
13 made to us. So please be assured that with this notification we will not do so anymore.
And then, uh, again, uh, please, uh, have our assurance that this will not happen anymore.
So I look forward to your calling me on the, uh, PC that was told to me by Mark that may
be available by Friday. So far as your letter is concerned, again I am assuring you that we
will not do it anymore. Thank you."

14 B. At least eight (8) borrowers provided the Department with declarations that, after November 2,
15 2004, Respondents were continuing to collect on their small loans and contact them to discuss payment
16 arrangements.

17 C. On December 3, 2004, the Superior Court for King County issued a Temporary Restraining
18 Order and Order to Show Cause (TRO) after a hearing attended by Respondent N. Tuazon on behalf of all
19 Respondents. The court found that irreparable harm would result to the public if Respondents continued
20 conducting an unlicensed business as a check casher or seller in violation of the Act and engaging in check
21 cashing or selling activities in violation of the Act.

22 D. At least two (2) borrowers provided the Department with declarations that, after December 3,
23 2004, Respondents were continuing to collect on their small loans and contact them to discuss payment
24 arrangements.

1 E. On January 4, 2005, the Superior Court for King County issued an Order Granting Motion for
2 Preliminary Injunction (Preliminary Injunction) after a hearing attended by Respondent N. Tuazon on behalf of
3 all Respondents. The Preliminary Injunction enjoined Respondents from doing business as a check casher or
4 seller as defined in the Act or engaging in any check cashing or selling activities as defined in the Act.

5 F. On January 13, 2005, at the OAH adjudicative hearing discussed in paragraph 1.4C,
6 Respondent N. Tuazon testified under oath that:

- 7 • Respondents collected money from small loan borrowers after the issuance of the TCD¹⁰
8 because "...it is not a crime nor against the law to collect or to be paid payments from my
9 borrowers because I read the order, cease and desist order, as not having contained a
10 specific provision that I should forego totally with the payments of my borrowers¹¹
11 ...nowhere in the order does it say I should not even accept nor even attempt. It is not
12 specific, it is not written in black and white that I am forbidden and prohibited from
13 accepting money or payments¹²...I understand [the TCD] to mean no fresh and new loans
14 should be done by me. That is my interpretation of that order¹³;" and
- 15 • Respondents collected money from small loan borrowers after receiving Brusselback's
16 letter, and after Respondent N. Tuazon left Brusselback the voicemail message¹⁴, both
17 discussed in paragraph 1.13A, because "...later on, after I read the order, I have changed
18 my mind or my decision on it because the order, which is the controlling one, not what I
said to Mr. Brusselback, is the one to be followed. And if you follow the order, there is no
express prohibition not to even accept or even attempt to collect payments¹⁵;" and
- Respondents collected money from small loan borrowers after the issuance of the TRO¹⁶
because "...the order contained in the cease and desist order has no specific order for me
not to accept payments nor even to attempt collection¹⁷" and if Respondents had stopped
collecting money from small loan borrowers after the issuance of the TRO, "[a] ridiculous
situation arises, that if I am prevented from even accepting payments from existing
borrowers¹⁸;" and
- Respondents collected money from small loan borrowers after the issuance of the
Preliminary Injunction¹⁹ because "...the order does not expressly prohibit me, and [the
Department's] conclusion that I am prohibited is just an inference by reading in between
the lines of the order because the order does not so speak²⁰...I am not prohibited by the
order. Neither is it against the law or a crime to be collecting on payments from
borrowers²¹;" and

19 ¹⁰ TR P 152 LN 4 – P 154 LN 3, TR P 183 LN 14 – P 184 LN 15, TR P 187 LN 3-20.

20 ¹¹ TR P 152 LN 22 – P 153 LN 1.

¹² TR P 153 LN 25 – P 154 LN 3.

¹³ TR P 187 LN 6-7.

21 ¹⁴ TR P 187 LN 21 – P 189 LN 10.

¹⁵ TR P 188 LN 21 – P 189 LN 1.

22 ¹⁶ TR P 153 LN 2 – P 154 LN 3.

¹⁷ TR P 153 LN 7-10.

¹⁸ TR P 153 LN 15-17.

23 ¹⁹ TR P 154 LN 17 – P 155 LN 22.

²⁰ TR P 154 LN 22-25.

24 ²¹ TR P 155 LN 20-22.

- Respondents were keeping the money they collected from small loan borrowers after the issuance of the TCD²² because "That is my money, to begin with. Of course, I keep it, because that is my money. I have not harmed anybody when they pay me because that, in the first place, is my money²³;" and
- as for applying the money Respondents collected from small loan borrowers after the issuance of the TCD²⁴, "...some are interest, some are principal because that indicate there this is a payment for the principal. Some say it is a payment for the interest. So it depends on the paying how he wants his money or his payment applied²⁵;" and
- as for discussions with small loan borrowers regarding the status of Respondents' license application with the Department after the issuance of the TCD²⁶, "I have not told them anything about licensing. I do not want them to be alarmed because, again, there is that thought, that if the department will give me another chance, I don't like to lose them. I could hunt them back as customers.²⁷,"

G. On February 14, 2005, ALJ Mentzer issued the Initial Order discussed in paragraph 1.4D, ordering that the provisions of the TCD shall remain in effect pending issuance and final resolution of a Statement of Charges in this matter.

H. On February 17, 2005, applications for writs of garnishment were filed in at least two of the Small Claims discussed in paragraph 1.5F. On February 24, 2005, requests were filed to transfer at least two of the Small Claims discussed in paragraph 1.5F to Civil Dockets (a preliminary step for collecting on a Small Claim judgment).

1.14 On-Going Investigation: The Department's investigation into the alleged violations of the Act by Respondents continues to date.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Definition of Check Casher. Pursuant to RCW 31.45.010(5), a "Check Casher" is defined as an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

²² TR P 157 LN 9-14.

²³ TR P 157 LN 11-14.

²⁴ TR P 157 LN 17-23.

²⁵ TR P 157 LN 19-23.

²⁶ TR P 165 LN 5-14.

²⁷ TR P 165 LN 10-14.

1 **2.2 Definition of Licensee.** Pursuant to RCW 31.45.010(12), a "Licensee" is defined as a check casher or
2 seller licensed by the director to engage in business in accordance with the Act. For the purpose of the
3 enforcement powers of the Act, including the power to issue cease and desist orders under RCW 31.45.110,
4 "licensee" also means a check casher or seller who fails to obtain the license required by the Act.

5 **2.3 Definition of Small Loan.** Pursuant to RCW 31.45.010(19), a "Small Loan" is defined as a loan up to
6 the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073. (See
7 paragraph 2.7).

8 **2.4 Check Casher License Required.** Based on the Factual Allegations set forth in Section I above,
9 Respondents are in apparent violation of RCW 31.45.030(1) for engaging in the business of a check casher
10 without first obtaining a license from the Director.

11 **2.5 Small Loan Endorsement Required.** Based on the Factual Allegations set forth in Section I above,
12 Respondents are in apparent violation of RCW 31.45.070 and RCW 31.45.073 for engaging in the business of
13 making small loans without first obtaining a small loan endorsement from the Director.

14 **2.6 Small Loan Disclosures Required.** Based on the Factual Allegations set forth in Section I above,
15 Respondents are in apparent violation of RCW 31.45.088(3), WAC 208-630-065, WAC 208-630-068 and WAC
16 208-630-080(3) for failing to provide disclosures to small loan borrowers including the terms of the small loan,
17 the principal amount of the small loan, the total of payments of the small loan, the fee or interest rate charged by
18 the licensee on the small loan, and the annual percentage rate resulting from this fee or interest rate.

19 **2.7 Statutory Maximum Principal Amount of Small Loan.** Based on the Factual Allegations set forth in
20 Section I above, Respondents are in apparent violation of RCW 31.45.073(2) for making small loans with
21 aggregated principal exceeding seven hundred dollars (\$700.00) at any one time.

22 **2.8 Statutory Maximum Interest or Fees on Small Loan.** Based on the Factual Allegations set forth in
23 Section I above, Respondents are in apparent violation of RCW 31.45.073(3) for charging interest or fees in the
24 aggregate exceeding fifteen percent (15%) of the first five hundred dollars (\$500.00) of principal and ten
25 percent (10%) of the next two hundred dollars (\$200.00) of principal of the small loans.

1 **2.9 Acceptance of Multiple Postdated Checks.** Based on the Factual Allegations set forth in Section I
2 above, Respondents are in apparent violation of RCW 31.45.073(4) for accepting more than one postdated
3 check per small loan as security for the small loan.

4 **2.10 Small Loan Repaid with Proceeds of Another Small Loan.** Based on the Factual Allegations set
5 forth in Section I above, Respondents are in apparent violation of RCW 31.45.073(4) and WAC 208-630-
6 085(2)(a) for redeeming post dated checks held as collateral for small loans with subsequent post dated checks,
7 and for applying the proceeds of subsequent small loans to outstanding small loans.

8 **2.11 Statutory Maximum Fees on Delinquent Small Loans.** Based on the Factual Allegations set forth in
9 Section I above, Respondents are in apparent violation of RCW 31.45.082 for charging fees on delinquent small
10 loans in excess of: (1) a one-time fee as determined in rule by the director where a borrower's check has been
11 returned unpaid by the financial institution upon which it is drawn; and (2) where civil action is taken under
12 Title 62A RCW, the allowable cost of collection as allowed under RCW 62A.3-515 but not attorney's fees or
13 any other interest or damages as allowed under RCW 62A.3-515. Pursuant to WAC 208-630-085(1)(b), the
14 allowable one-time fee where a borrower's check has been returned unpaid by the financial institution upon
15 which it is drawn is currently up to twenty-five dollars (\$25.00). Pursuant to RCW 62A.3-515(a), the allowable
16 cost of collection is currently the lesser of forty dollars (\$40.00) or the face amount of the check.

17 **2.12 Statutory Maximum Fees on Small Loan Payment Plans.** Based on the Factual Allegations set forth
18 in Section I above, Respondents are in apparent violation of RCW 31.45.084(1) for charging fees on small loan
19 payment plans in excess of the fee or interest on the outstanding principal of the loan as allowed under RCW
20 31.45.073(3).

21 **2.13 Investigation of License Application.** Pursuant to RCW 31.45.040(1), the director shall conduct an
22 investigation of the applicant to determine the financial responsibility, experience, character, and general fitness
23 of the applicant. Pursuant to RCW 31.45.040(1)(b), prior to the issuance of a license the director must
24 determine to his or her satisfaction that the applicant is financially responsible and appears to be able to conduct
25 the business of cashing or selling checks or making small loans in an honest, fair, and efficient manner with the

1 confidence and trust of the community. Based on the Factual Allegations set forth in Section I above, the
2 Director has not determined to his satisfaction that Respondents are financially responsible and able to conduct
3 the business of cashing or selling checks or making small loans in an honest, fair, and efficient manner with the
4 confidence and trust of the community.

5 **2.14 Authority to Deny License.** Pursuant to RCW 31.45.110(2)(a), the Director may deny a license
6 application if a licensee or applicant is violating or has violated the Act including rules and orders, or commits
7 any act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury or
8 loss to the public.

9 **2.15 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine, not to
10 exceed one hundred dollars per day for each day's violation of the Act, on any licensee or applicant, or any
11 director, officer, sole proprietor, partner, controlling person, or employee of a licensee or applicant, that is
12 violating or has violated the Act including rules and orders, or commits any act or engages in conduct that
13 demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.

14 **2.16 Authority to Order Restitution.** Pursuant to RCW 31.45.110(2)(d), the Director may order restitution
15 to borrowers damaged by the licensee's violation of this chapter.

16 **2.17 Authority to Remove and Ban from the Industry.** Pursuant to RCW 31.45.110(2)(e), the Director
17 may remove from office or ban from participation in the conduct of the affairs of any licensee any director,
18 officer, sole proprietor, partner, controlling person, or employee of a licensee that is violating or has violated the
19 Act including rules and orders, or commits any act or engages in conduct that demonstrates incompetence or
20 untrustworthiness, or is a source of injury or loss to the public.

21 **2.18 Authority to Charge Investigation Fee.** Pursuant to RCW 31.45.050(1), RCW 31.45.100, WAC 208-
22 630-020, WAC 208-630-023 and WAC 208-630-02303, upon completion of any investigation of the books and
23 records of a licensee, the Director shall collect from the licensee the actual cost of the investigation. The
24 investigation charge will be calculated at the rate of sixty-nine dollars and one cent (\$69.01) per hour that each staff
25 person devoted to the investigation.

III. NOTICE OF INTENTION TO ENTER ORDER

Respondents' violations of the provisions of chapter 31.45 RCW and chapter 208-630 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 31.45.110 and RCW 31.45.200. Therefore, it is the Director's intention to ORDER that:

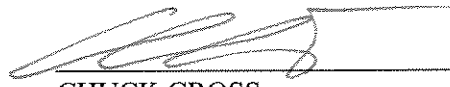
- 3.1 Respondent Cash USA, Inc.'s application for a license to conduct the business of a Check Casher with a Small Loan Endorsement be denied; and
- 3.2 Respondents Cash USA, Inc., Nilo Tuazon, and Marita Tuazon jointly and severally pay a fine of \$65,000.00 for:
 - a. Engaging in the business of a check casher making small loans without a check casher license with a small loan endorsement, calculated at \$100.00 per day for 383 days; and
 - b. Failing to disclose the terms of small loans to borrowers, calculated at \$75.00 per day for 30 days; and
 - c. Making small loans in excess of the statutory maximum, calculated at \$100.00 per day for 30 days; and
 - d. Charging interest or fees on small loans in excess of the statutory maximum, calculated at \$100.00 per day for 30 days; and
 - e. Accepting multiple postdated checks for small loans, calculated at \$75.00 per day for 30 days; and
 - f. Allowing small loans to be repaid with the proceeds of successive small loans, calculated at \$100.00 per day for 30 days; and
 - g. Charging fees on delinquent small loans in excess of the statutory maximum, calculated at \$100.00 per day for 30 days; and
 - h. Charging fees on small loan payment plans in excess of statutory maximum, calculated at \$100.00 per day for 30 days; and
 - i. Violating an Order of the Director, calculated at \$100.00 per day for 72 days; and
- 3.3 Respondents Cash USA, Inc., Nilo Tuazon, and Marita Tuazon jointly and severally pay restitution to all affected borrowers for:
 - a. any interest or fees collected on small loans originated without a license from July 2003 through the date of this order, including at least \$177,000.00 collected from borrowers between January 2004 and November 2, 2004 as discussed in paragraph 1.5B, and any interest or fees collected from borrowers after the issuance of the TCD as discussed in paragraph 1.13; and
 - b. any fees collected related to delinquent small loans originated without a license from July 2003 through the date of this order, including at least \$1,000.00 to the borrowers discussed in paragraph 1.11; and
 - c. any fees collected related to payment plans on small loans originated without a license, including the borrowers discussed in paragraph 1.12; and
- 3.4 Respondent Cash USA, Inc. be banned from participation in the conduct of the affairs of any check casher or seller subject to licensure by the Director, in any manner, for a period of ten (10) years; and
- 3.5 Respondent Nilo Tuazon be banned from participation in the conduct of the affairs of any check casher or seller subject to licensure by the Director, in any manner, for a period of ten (10) years; and
- 3.6 Respondent Marita Tuazon be banned from participation in the conduct of the affairs of any check casher or seller subject to licensure by the Director, in any manner, for a period of ten (10) years; and

1 3.7 Respondents Cash USA, Inc., Nilo Tuazon, and Marita Tuazon jointly and severally pay an
2 investigation fee in the amount of \$15,015.52, calculated at \$69.01 per hour for two hundred ten (210)
3 staff hours devoted to the investigation, less the fifteen (15) staff hours paid out of Respondents'
application deposit, plus \$1,558.57 in expenses related to the investigation.

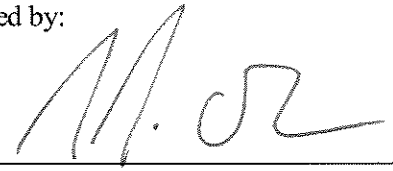
4 IV. AUTHORITY AND PROCEDURE

5 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application, Impose Fine,
6 Order Restitution, Ban from Industry, and Collect Investigation Fee is entered pursuant to the provisions of
7 RCW 31.45.110 and RCW 31.45.200, and is subject to the provisions of chapter 34.05 RCW (The
8 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the
9 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
10 Statement of Charges and Notice of Intention to Enter an Order to Deny License Application, Impose Fine,
11 Order Restitution, Ban from Industry, and Collect Investigation Fee.

12 Dated this 15th day of June, 2005.

13
14 
15 CHUCK CROSS
16 Director
17 Division of Consumer Services
18 Department of Financial Institutions

19 Presented by:

20 
21 Mark T. Olson
22 Financial Examiner



1 **RCW 31.45.010 Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

2 ...
3 (5) "Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

4 ...
5 (12) "Licensee" means a check casher or seller licensed by the director to engage in business in accordance with this chapter. For purposes of the enforcement powers of this chapter, including the power to issue cease and desist orders under RCW 31.45.110, "licensee" also means a check casher or seller who fails to obtain the license required by this chapter.

6 ...
7 (19) "Small loan" means a loan of up to the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.

8 ...
9 [2003 c 86 § 1; 1995 c 18 § 1; 1994 c 92 § 274; 1993 c 143 § 1; 1991 c 355 § 1.]

10 **RCW 31.45.030 License required -- Small loan endorsement -- Application -- Fee -- Bond -- Deposit in lieu of bond -- Director's duties.**

(1) Except as provided in RCW 31.45.020, no check casher or seller may engage in business without first obtaining a license from the director in accordance with this chapter. A license is required for each location where a licensee engages in the business of cashing or selling checks or drafts.

11 ...
12 [2003 c 86 § 3; 2001 c 177 § 11; 1995 c 18 § 4; 1994 c 92 § 276; 1993 c 176 § 1; 1991 c 355 § 3.]

13 **RCW 31.45.040 Application for license or small loan endorsement -- Financial responsibility -- Director's investigation.**

(1) The director shall conduct an investigation of every applicant to determine the financial responsibility, experience, character, and general fitness of the applicant. The director shall issue the applicant a license to engage in the business of cashing or selling checks, or both, or a small loan endorsement, if the director determines to his or her satisfaction that:

- 14 (a) The applicant has satisfied the requirements of RCW 31.45.030;
15 (b) The applicant is financially responsible and appears to be able to conduct the business of cashing or selling checks or making small loans in an honest, fair, and efficient manner with the confidence and trust of the community; and
16 (c) The applicant has the required bonds, or has provided an acceptable alternative form of financial security.

17 ...
18 [2003 c 86 § 4; 1996 c 13 § 1; 1995 c 18 § 5; 1994 c 92 § 277; 1991 c 355 § 4.]

19 **RCW 31.45.050 Investigation or examination fee and annual assessment fee required -- Amounts determined by rule -- Failure to pay -- Notice requirements of licensee.**

(1) Each applicant and licensee shall pay to the director an investigation or examination fee as established in rule and an annual assessment fee for the coming year in an amount determined by rule as necessary to cover the operation of the program. The annual assessment fee is due upon the annual assessment fee due date as established in rule. Nonpayment of the annual assessment fee may result in expiration of the license as provided in subsection (2) of this section. In establishing the fees, the director shall differentiate between check cashing and check selling and making small loans, and consider at least the volume of business, level of risk, and potential harm to the public related to each activity. The fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

21 ...
22 [2003 c 86 § 5; 2001 c 177 § 12; 1996 c 13 § 2; 1995 c 18 § 6; 1994 c 92 § 278; 1991 c 355 § 5.]

RCW 31.45.070 Licensee -- Permissible transactions -- Restrictions.

(1) No licensee may engage in a loan business or the negotiation of loans or the discounting of notes, bills of exchange, checks, or other evidences of debt on the same premises where a check cashing or selling business is conducted, unless the licensee:

- (a) Is conducting the activities of pawnbroker as defined in RCW 19.60.010;
- (b) Is a properly licensed consumer loan company under chapter 31.04 RCW;
- (c) Is conducting other lending activity permitted in the state of Washington; or
- (d) Has a small loan endorsement.

(2) Except as otherwise permitted in this chapter, no licensee may at any time cash or advance any moneys on a postdated check or draft. However, a licensee may cash a check payable on the first banking day following the date of cashing if:

- (a) The check is drawn by the United States, the state of Washington, or any political subdivision of the state, or by any department or agency of the state or its subdivisions; or
- (b) The check is a payroll check drawn by an employer to the order of its employee in payment for services performed by the employee.

(3) Except as otherwise permitted in this chapter, no licensee may agree to hold a check or draft for later deposit. A licensee shall deposit all checks and drafts cashed by the licensee as soon as practicable.

(4) No licensee may issue or cause to be issued any check, draft, or money order, or other commercial paper serving the same purpose, that is drawn upon the trust account of a licensee without concurrently receiving the full principal amount, in cash, or by check, draft, or money order from a third party believed to be valid.

(5) No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, any statement or representation that is false, misleading, or deceptive, or that omits material information, or that refers to the supervision of the licensee by the state of Washington or any department or official of the state.

(6) Each licensee shall comply with all applicable federal statutes governing currency transaction reporting.

[2003 c 86 § 7; 1995 c 18 § 7; 1994 c 92 § 280; 1991 c 355 § 7.]

RCW 31.45.073 Making small loans -- Endorsement required -- Termination date -- Maximum amount -- Interest -- Fees -- Postdated check or draft as security.

(1) No licensee may engage in the business of making small loans without first obtaining a small loan endorsement to its license from the director in accordance with this chapter. An endorsement will be required for each location where a licensee engages in the business of making small loans, but a small loan endorsement may authorize a licensee to make small loans at a location different than the licensed locations where it cashes or sells checks. A licensee may have more than one endorsement.

(2) The termination date of a small loan may not exceed the origination date of that same small loan by more than forty-five days, including weekends and holidays, unless the term of the loan is extended by agreement of both the borrower and the licensee and no additional fee or interest is charged. The maximum principal amount of any small loan, or the outstanding principal balances of all small loans made by a licensee to a single borrower at any one time, may not exceed seven hundred dollars.

(3) A licensee that has obtained the required small loan endorsement may charge interest or fees for small loans not to exceed in the aggregate fifteen percent of the first five hundred dollars of principal. If the principal exceeds five hundred dollars, a licensee may charge interest or fees not to exceed in the aggregate ten percent of that portion of the principal in excess of five hundred dollars. If a licensee makes more than one loan to a single borrower, and the aggregated principal of all loans made to that borrower exceeds five hundred dollars at any one time, the licensee may charge interest or fees not to exceed in the aggregate ten percent on that portion of the aggregated principal of all loans at any one time that is in excess

1 of five hundred dollars. The director may determine by rule which fees, if any, are not subject to the interest or fee
2 limitations described in this section. It is a violation of this chapter for any licensee to knowingly loan to a single borrower
at any one time, in a single loan or in the aggregate, more than the maximum principal amount described in this section.

3 (4) In connection with making a small loan, a licensee may advance moneys on the security of a postdated check. The
4 licensee may not accept any other property, title to property, or other evidence of ownership of property as collateral for a
small loan. The licensee may accept only one postdated check per loan as security for the loan. A licensee may permit a
5 borrower to redeem a postdated check with a payment of cash or the equivalent of cash. The licensee may disburse the
6 proceeds of a small loan in cash, in the form of a check, or in the form of the electronic equivalent of cash or a check.

7 (5) No person may at any time cash or advance any moneys on a postdated check or draft in excess of the amount of goods
8 or services purchased without first obtaining a small loan endorsement to a check casher or check seller license.

9 [2003 c 86 § 8; 1995 c 18 § 2.]

10 **RCW 31.45.082 Delinquent small loan -- Collection by licensee or third party.**

11 A licensee shall comply with all applicable state and federal laws when collecting a delinquent small loan. A licensee may
12 charge a one-time fee as determined in rule by the director to any borrower in default on any loan or loans where the
13 borrower's check has been returned unpaid by the financial institution upon which it was drawn. A licensee may take civil
14 action under Title 62A RCW to collect upon a check that has been dishonored. If the licensee takes civil action, a licensee
15 may charge the borrower the cost of collection as allowed under RCW 62A.3-515, but may not collect attorneys' fees or
16 any other interest or damages as allowed under RCW 62A.3-515. A licensee may not threaten criminal prosecution as a
17 method of collecting a delinquent small loan. If a dishonored check is assigned to any third party for collection, this section
18 applies to the third party for the collection of the dishonored check.

19 [2003 c 86 § 11.]

20 **RCW 31.45.084 Small loan payment plan -- Terms -- Restrictions.**

21 (1) A licensee and borrower may agree to a payment plan for a small loan at any time. After four successive loans and prior
22 to default upon the last loan, each borrower may convert their small loan to a payment plan. Each agreement for a loan
23 payment plan must be in writing and acknowledged by both the borrower and the licensee. The licensee may charge the
24 borrower, at the time both parties enter into the payment plan, a one-time fee for the payment plan in an amount up to the
25 fee or interest on the outstanding principal of the loan as allowed under RCW 31.45.073(3). The licensee may not assess
any other fee, interest charge, or other charge on the borrower as a result of converting the small loan into a payment plan.
This payment plan must provide for the payment of the total of payments due on the small loan over a period not less than
sixty days in three or more payments, unless the borrower and licensee agree to a shorter payment period. The borrower
may pay the total of payments at any time. The licensee may not charge any penalty, fee, or charge to the borrower for
prepayment of the loan payment plan by the borrower. Each licensee shall conspicuously disclose to each borrower in the
small loan agreement or small loan note that the borrower has access to such a payment plan after four successive loans. A
licensee's violation of such a payment plan constitutes a violation of this chapter.

...

[2003 c 86 § 12.]

RCW 31.45.088 Small loans -- Disclosure requirements -- Advertising -- Making loan.

(3) When making a small loan, each licensee shall disclose to the borrower the terms of the small loan, including the
principal amount of the small loan, the total of payments of the small loan, the fee or interest rate charged by the licensee
on the small loan, and the annual percentage rate resulting from this fee or interest rate.

...

[2003 c 86 § 14.]

1 **RCW 31.45.100 Examination or investigation -- Director's authority -- Costs.**

2 The director or the director's designee may at any time examine and investigate the business and examine the books,
3 accounts, records, and files, or other information, wherever located, of any licensee or person who the director has reason
4 to believe is engaging in the business governed by this chapter. For these purposes, the director or the director's designee
5 may require the attendance of and examine under oath all persons whose testimony may be required about the business or
6 the subject matter of the investigation. The director or the director's designee may require the production of original books,
7 accounts, records, files, or other information, or may make copies of such original books, accounts, records, files, or other
8 information. The director or the director's designee may issue a subpoena or subpoena duces tecum requiring attendance
9 and testimony, or the production of the books, accounts, records, files, or other information. The director shall collect from
10 the licensee the actual cost of the examination or investigation.

11 [2003 c 86 § 16; 1994 c 92 § 283; 1991 c 355 § 10.]

12 **RCW 31.45.110 Violations or unsound financial practices -- Statement of charges -- Hearing -- Sanctions --**
13 **Director's authority.**

14 (1) The director may issue and serve upon a licensee or applicant a statement of charges if, in the opinion of the director,
15 any licensee or applicant:

16 (a) Is engaging or has engaged in an unsafe or unsound financial practice in conducting the business of a check seller
17 governed by this chapter;

18 (b) Is violating or has violated this chapter, including rules, orders, or subpoenas, any rule adopted under chapter 86,
19 Laws of 2003, any order issued under chapter 86, Laws of 2003, any subpoena issued under chapter 86, Laws of 2003, or
20 any condition imposed in writing by the director or the director's designee in connection with the granting of any
21 application or other request by the licensee or any written agreement made with the director;

22 (c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon
23 reasonable cause;

24 (d) Obtains a license by means of fraud, misrepresentation, concealment, or through mistake or inadvertence of the
25 director;

(e) Provides false statements or omissions of material information on the application that, if known, would have allowed
the director to deny the application for the original license;

(f) Fails to pay a fee required by the director or maintain the required bond;

(g) Commits a crime against the laws of the state of Washington or any other state or government involving moral
turpitude, financial misconduct, or dishonest dealings;

(h) Knowingly commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick,
scheme, or device whereby any other person relying upon the word, representation, or conduct acts to his or her injury or
damage;

(i) Converts any money or its equivalent to his or her own use or to the use of his or her principal or of any other person;

(j) Fails, upon demand by the director or the director's designee, to disclose any information within his or her
knowledge to, or to produce any document, book, or record in his or her possession for inspection of, the director or the
director's designee;

(k) Commits any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court, tribunal,
agency, or administrative body of competent jurisdiction regarding that act is conclusive evidence in any hearing under this
chapter; or

1 (1) Commits an act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury
and loss to the public.

2 (2) The statement of charges shall be issued under chapter 34.05 RCW. The director or the director's designee may impose
3 the following sanctions against any licensee or applicant, or any director, officer, sole proprietor, partner, controlling
person, or employee of a licensee or applicant:

4 (a) Deny, revoke, suspend, or condition the license;

5 (b) Order the licensee to cease and desist from practices in violation of this chapter or practices that constitute unsafe
and unsound financial practices in the sale of checks;

6 (c) Impose a fine not to exceed one hundred dollars per day for each day's violation of this chapter;

7 (d) Order restitution to borrowers or other parties damaged by the licensee's violation of this chapter or take other
affirmative action as necessary to comply with this chapter; and

8 (e) Remove from office or ban from participation in the affairs of any licensee any director, officer, sole proprietor,
partner, controlling person, or employee of a licensee.

9 (3) The proceedings to impose the sanctions described in subsection (2) of this section, including any hearing or appeal of
the statement of charges, are governed by chapter 34.05 RCW.

10 Unless the licensee personally appears at the hearing or is represented by a duly authorized representative, the licensee
is deemed to have consented to the statement of charges and the sanctions imposed in the statement of charges.

11 [2003 c 86 § 17; 1994 c 92 § 284; 1991 c 355 § 11.]

12 **RCW 31.45.200 Director -- Broad administrative discretion.**

13 The director has the power, and broad administrative discretion, to administer and interpret the provisions of this chapter to
ensure the protection of the public.

14 [1994 c 92 § 291; 1991 c 355 § 20.]

15 **RCW 62A.3-515 Checks dishonored by nonacceptance or nonpayment; liability for interest; rate; collection costs
and attorneys' fees; satisfaction of claim.**

16 (a) If a check as defined in RCW 62A.3-104 is dishonored by nonacceptance or nonpayment, the payee or person entitled
to enforce the check under RCW 62A.3-301 may collect a reasonable handling fee for each instrument. If the check is not
17 paid within fifteen days and after the person entitled to enforce the check or the person's agent sends a notice of dishonor as
provided by RCW 62A.3-520 to the drawer at the drawer's last known address, and if the instrument does not provide for
the payment of interest or collection costs and attorneys' fees, the drawer of the instrument is liable for payment of interest
18 at the rate of twelve percent per annum from the date of dishonor, and cost of collection not to exceed forty dollars or the
face amount of the check, whichever is less, payable to the person entitled to enforce the check. In addition, in the event of
19 court action on the check, the court, after notice and the expiration of the fifteen days, shall award reasonable attorneys'
fees, and three times the face amount of the check or three hundred dollars, whichever is less, as part of the damages
payable to the person enforcing the check. This section does not apply to an instrument that is dishonored by reason of a
20 justifiable stop payment order.

21 (b)(1) Subsequent to the commencement of an action on the check (subsection (a)) but prior to the hearing, the defendant
may tender to the plaintiff as satisfaction of the claim, an amount of money equal to the face amount of the check, a
reasonable handling fee, accrued interest, collection costs equal to the face amount of the check not to exceed forty dollars,
22 and the incurred court costs, service costs, and statutory attorneys' fees.

23 (2) Nothing in this section precludes the right to commence action in a court under chapter 12.40 RCW for small claims.

[2000 c 215 § 1; 1995 c 187 § 1; 1993 c 229 § 67; 1991 c 168 § 1; 1986 c 128 § 1; 1981 c 254 § 1; 1969 c 62 § 1; 1967 ex.s. c 23 § 1.]

WAC 208-630-020 Schedule of fees paid by licensees and applicants.

(1) The director shall collect the following fees:

- (a) Charges for costs incurred by the division for review and investigation of applications;
- (b) An annual assessment charge; and
- (c) Charges for examinations described in WAC 208-630-015.

(2) Fees must be paid promptly when due but no later than thirty days after receipt of any billing from the division.

[Statutory Authority: RCW 42.320.040 and 31.45.200. 97-09-035, § 208-630-020, filed 4/11/97, effective 5/12/97.

Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, recodified as § 208-630-020, filed 1/12/96, effective 2/12/96. Statutory Authority: 1991 c 355 § 24. 92-02-105, § 50-30-020, filed 1/2/92, effective 2/2/92.]

WAC 208-630-023 Examination fees.

The fee for examinations described in WAC 208-630-015 shall be \$66.81 per employee hour expended.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-630-023, filed 5/29/01, effective 7/1/01. Statutory Authority: RCW 42.320.040 and 31.45.200. 97-09-035, § 208-630-023, filed 4/11/97, effective 5/12/97.]

WAC 208-630-02303 Fee increase.

The division intends to increase its fee and assessment rates each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

(1) On July 1, 2002, the fee and assessment rates under WAC 208-630-021, 208-630-022, and 208-630-023, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025. However, there will be no rate increase under this subsection (1) for assessments described in WAC 208-630-022 (2)(a)(i), (b)(i) and (c)(i).

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

(3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-630-02303, filed 5/29/01, effective 7/1/01.]

WAC 208-630-065 The note.

Each small loan made under a small loan endorsement pursuant to chapter 31.45 RCW shall be evidenced by a written note which shall state at least the following:

- (1) The date of the loan;
- (2) The principal amount of the loan which is defined as the face amount of the debt instrument on which interest is owed;
- (3) The manner in which it is to be repaid;
- (4) The maturity date of the debt; and
- (5) The rate of interest and the method of calculating interest.

[Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, codified as § 208-630-065, filed 1/12/96, effective 2/12/96.]

1 **WAC 208-630-068 Contents of disclosure statement to borrower.**

2 (1) The licensee shall deliver to the borrower at the time a small loan is made a statement which meets the requirements of
all applicable laws, including the federal Truth in Lending Act.

3 (2) Sufficient information must be maintained in the licensee's files to show compliance with the consumer disclosure
requirements of state and federal law.

4 [Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, codified as § 208-630-068, filed 1/12/96, effective
2/12/96.]

5 **WAC 208-630-080 Licensees are required to comply with federal and state laws including but not limited to the
6 following.**

7 (3) Each licensee with a small loan endorsement must comply with the federal Truth in Lending Act.

8 [Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, recodified as § 208-630-080, filed 1/12/96, effective
2/12/96. Statutory Authority: 1991 c 355 § 24. 92-02-105, § 50-30-080, filed 1/2/92, effective 2/2/92.]

9 **WAC 208-630-085 Licensee with small loan endorsement -- Powers -- Restrictions.**

(1) A licensee with a small loan endorsement may:

10 (b) Charge or collect a fee equal to or less than twenty-five dollars for a check returned unpaid by the bank drawn upon.
Only one fee may be collected with respect to a particular check even if it has been redeposited and returned more than
11 once.

(2) A licensee with a small loan endorsement is subject to the following restrictions:

12 (a) No loan made under this act shall be repaid by proceeds of another loan made under chapter 31.45 RCW by the
same lender or affiliate. The proceeds from any loan made under this act shall not be applied to any other loan from the
same lender or affiliate;

13 ...
14 [Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, codified as § 208-630-085, filed 1/12/96, effective
2/12/96.]